



Individuals with Disabilities Education Act, Part B

State Guidance to Area & Local Education Agencies

April 21, 2009

State of Iowa
Department of Education
Grimes State Office Building
400 E 14th St
Des Moines IA 50319-0146

State Board of Education

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If you have questions or grievances related to compliance with this policy by the Iowa Department of Education, please contact the legal counsel for the Iowa Department of Education, Grimes State Office Building, 400 E 14th St, Des Moines IA 50319-0146, telephone number 515/281-5295, or the Director of the Office for Civil Rights, U.S. Department of Education, 111 N. Canal Street, Suite 1053, Chicago, IL 60606-7204.

Overview: The American Recovery and Reinvestment Act (ARRA)

Principles: The overall goals of the American Recovery and Reinvestment Act (ARRA) are to stimulate the economy in the short term and invest in education and other essential public services to ensure the long-term economic health of our nation. The success of the education part of ARRA, commonly referred to as the federal stimulus package, will depend on the shared commitment and responsibility of students, parents, teachers, principals, superintendents, education boards, college presidents, state school chiefs, governors, local officials, and federal officials. Collectively, we must advance ARRA's short-term economic goals by investing quickly, and we must support ARRA's long-term economic goals by investing wisely, using these funds to strengthen education, drive reforms, and improve results for students from early learning through college. Four principles guide the distribution and use of ARRA funds:

1. **Spend funds quickly to save and create jobs.** ARRA funds will be distributed quickly to states, local education agencies (LEAs), area education agencies (AEAs), institutes of higher education (IHEs), and other entities in order to avert layoffs and create jobs. States, LEAs, AEAs, and IHEs in turn should move rapidly to develop plans for using funds, consistent with the ARRA's reporting and accountability requirements, and to promptly begin spending funds to help drive the nation's economic recovery.
2. **Improve student achievement through school improvement and reform.** ARRA funds should be used to improve student achievement, and help close the achievement gap. In addition, the State Fiscal Stabilization Fund (SFSF) requires progress on four reforms previously authorized under the bipartisan Elementary and Secondary Education Act and the America Competes Act of 2007:
 - a. Making progress toward rigorous college- and career-ready standards and high-quality assessments that are valid and reliable for all students, including English language learners and students with disabilities;
 - b. Establishing pre-K to college and career data systems that track progress and foster continuous improvement;
 - c. Making improvements in teacher effectiveness and in the equitable distribution of qualified teachers for all students, particularly students who are most in need; and
 - d. Providing intensive support and effective interventions for the lowest-performing schools.
3. **Ensure transparency, reporting, and accountability.** To prevent fraud and abuse, support the most effective uses of ARRA funds, and accurately measure and track results, recipients must publicly report on how funds are used. Due to the unprecedented scope and importance of this investment, ARRA funds are subject to additional and more rigorous reporting requirements than normally apply to grant recipients.

Invest one-time ARRA funds thoughtfully to minimize the "funding cliff." ARRA represents a historic infusion of funds that is expected to be temporary. Depending on the program, these funds are available for only two to three years. These funds should be invested in ways that do not result in unsustainable continuing commitments after the funding expires.

Questions & Answers: IDEA, Part B Funds

Timing and Eligibility

1. How and when will Individuals with Disabilities Education Act (IDEA) Part B American Recovery and Reinvestment Act (ARRA) funds be allocated by the Iowa Department of Education (DE) to local and area education agencies (AEAs, LEAs)?

The DE intends to award the IDEA Part B Grants to States and Preschool Grants ARRA funds in five installments beginning May 1, 2009. It is the DE's intent that the remaining four installments be distributed on October 1, 2009; April 1, 2010; October 1, 2010; and April 1, 2011. Each of these installments will be distributed just like the basic Part B allocation by flowing the funds through the AEAs to the LEAs. These awards shall be subject to review and approval by the DE. In addition, these awards will be in addition to the regular school year (2009-2010) Part B awards that will be made about October 1, 2009 (Grants to States and Preschool Grants) and October 1, 2009 (Grants to States only). Together, these grant awards will constitute an LEA's total school year 2009-2010 Part B Grants to States and Preschool Grants allocations.

2. What must an AEA or LEA do to receive IDEA, Part B, ARRA funds?

An AEA or LEA does not need to submit a new application to receive the first installment of the IDEA, Part B, Grants to States and Preschool Grants ARRA funds because these funds were made available to each AEA or LEA based on the AEA and LEA's eligibility established for school year 2008-2009 Part B funds and its provision of the certification required by section 1607 of the ARRA. The assurances in the AEA and LEA's school year 2008-2009 applications, as well as the requirements of the ARRA, apply to these ARRA funds. In order to receive the remaining funds, each AEA or LEA will need to submit, for review and approval by the DE, additional information that addresses how the AEA or LEA will meet the accountability and reporting requirements in section 1512 of the ARRA. The DE will issue specific guidance for preparing and submitting this recordkeeping and reporting information and other guidance governing ARRA funds in the coming weeks.

3. How are the IDEA Part B, ARRA funds for the Grants to States and Preschool Grants programs to be allocated to the AEAs and LEAs?

The IDEA, Part B, ARRA funds under section 611 will be allocated 60 percent to the LEAs and 40 percent to the AEAs. The IDEA, Part B, ARRA funds under 619 Preschool Grants will be allocated 100 percent to the AEAs. In addition, both section 611 and 619 ARRA funds will need to be accounted for separately.

4. May an AEA or LEA refuse to accept IDEA funds, including ARRA funds, and if so, does the state reallocate the funds to other AEAs or LEAs?

Yes. An AEA or LEA may refuse to accept IDEA Part B funds, but what the DE may do with those funds will depend on the specific circumstances.

- a. If an AEA or LEA refuses to accept IDEA funds, and the DE determines that the children in that AEA or LEA are not receiving a free, appropriate public education (FAPE), then the DE must use funds that would have gone to the AEA or LEA to provide special education and related services directly to children with disabilities in the jurisdiction of that AEA or LEA [34 CFR §300.227].
- b. If the DE determines that an AEA or LEA is adequately providing FAPE to all children with disabilities residing in the area served by that AEA or LEA with state and local funds, the DE may either:
 - Reallocate those funds to other AEAs or LEAs that are not adequately providing special education and related services to all children with disabilities within their jurisdictions;
 - Retain those funds for use at the state level to the extent that the state has not reserved the maximum amount of funds it is permitted to retain for state-level activities;
 - Reallocate the funds an LEA rejected to the AEA serving that district; or
 - Reallocate the funds an AEA rejected to the other AEAs throughout the state.
- c. The DE also may use those funds to develop and implement a state policy to provide early intervention jointly with the lead agency under Part C of IDEA. If the DE implements such a policy, the early intervention services must include an educational component that promotes school

readiness and incorporates preliteracy, language, and numeracy skills, in accordance with Part C to children with disabilities who are eligible for services under section 619 of the Act and who previously received services under Part C until the children enter, or are eligible under state law to enter, kindergarten, or elementary school as appropriate [34 CFR §300.704(f)].

5. What is the period of availability for the IDEA, Part B, ARRA funds?

AEAs and LEAs must obligate all IDEA, Part B, ARRA funds by September 30, 2011. A chart indicating when an obligation occurs for various types of activities is provided in the Education Department General Administrative Regulations (EDGAR) at 34 CFR §76.707. In accordance with the goals of the ARRA, a state should obligate IDEA, Part B, ARRA funds to AEAs or LEAs as soon as possible, consistent with prudent management, so that AEAs or LEAs can begin using the funds. Similarly, an AEA or LEA should use the IDEA, Part B, ARRA funds expeditiously, but sensibly. States may begin obligating IDEA, Part B, ARRA funds immediately. Costs covered by the ARRA funds are allowable beginning February 17, 2009, the effective date of the grants.

Authorized Uses of IDEA, Part B, ARRA Funds

1. What provisions of the EDGAR and the General Education Provisions Act (GEPA) apply to use of the IDEA ARRA funds?

All provisions of EDGAR and GEPA, as well as those in IDEA, that currently apply to IDEA funds apply to the IDEA, Part B, ARRA funds. An AEA and LEA must use IDEA, Part B, ARRA funds only for the excess costs of providing special education and related services to children with disabilities, except where IDEA specifically provides otherwise. In addition, an AEA must use the Section 619 ARRA Preschool Grants for children with disabilities aged three through five years.

2. May IDEA funds, including IDEA, Part B, ARRA funds, be used for coordinated early intervening services (CEIS)?

Yes. AEAs and LEAs may choose to use up to 15 percent of the total of the regular and ARRA Part B Grants to States to implement CEIS to students in kindergarten through grade 12 who have not been identified as needing special education and related services, but who need additional academic and behavioral support to succeed in a general education environment. The funds set aside for CEIS may be used by the AEA or LEA in school year 2009-2010 or in both school years 2009-2010 and 2010-2011, as long as the funds are obligated by September 30, 2011. If an AEA or LEA seeks both to set aside funds for CEIS and to take advantage of the flexibility to reduce its local expenditures for special education under section 613(a)(2)(C), the AEA or LEA must ensure the amount it uses for CEIS does not exceed the maximum amount that could be set aside for CEIS (i.e., 15 percent of the total of its Part B allocations) minus the amount by which it seeks to reduce its maintenance of effort (MOE). Alternatively, the AEA or LEA may choose to take full advantage of the flexibility to reduce its MOE and use the freed-up local funds for early intervening services for children at risk of school failure without additional support.

3. May IDEA funds, including IDEA, Part B, ARRA funds, be used for construction or alteration of facilities?

No.

4. May IDEA funds, including IDEA, Part B, ARRA funds, be used to purchase equipment?

Section 605 of the IDEA authorizes the Secretary of the Federal Department of Education to allow the use of IDEA funds for the acquisition of equipment if the Secretary determines that the program would be improved by allowing funds to be used for these purposes. In general, to be able to use IDEA funds for these costs, the DE will need to obtain prior approval of the Federal Department of Education for the DE's use of IDEA funds for these costs; and AEAs and LEAs will need to obtain the prior approval of the DE for the AEA or LEA's use of IDEA funds for these costs. For purposes of these prior approval requirements, "equipment" is defined to mean an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds \$5,000.

5. May AEAs or LEAs use the flexible authority available under IDEA, section 613(a)(2)(C) (34 CFR §300.205) to reduce their local, or state and local, expenditures for special education and related services? If so, how?

Under certain circumstances, in accordance with IDEA section 613(a)(2)(C), in any fiscal year that an AEA or LEA's subgrant allocation exceeds the amount that the AEA or LEA received in the previous fiscal year, that AEA or LEA may reduce the level of local, or state and local, expenditures otherwise required by the AEA or LEA MOE requirements (in IDEA, section 613(a)(2)) by up to 50 percent of the increase in the AEA or LEA's subgrant allocation. The AEA or LEA must spend the 'freed-up' local or, state and local, funds on activities that are authorized under the Elementary and Secondary Education Act (ESEA) of 1965.

6. How can an AEA or LEA determine that it is eligible to reduce its state and local effort by up to 50 percent of the increase in its subgrant allocation?

There are provisions of the IDEA that limit whether an AEA or LEA may reduce local effort under IDEA section 613(a)(2)(C) (34 CFR §300.205). Under IDEA section 616(f), if the DE determines that an AEA or LEA is not meeting the requirements of Part B, including meeting targets in the state's performance plan, the DE **must** prohibit that AEA or LEA from reducing its MOE under IDEA section 613(a)(2)(C) for any fiscal year. Therefore, an AEA or LEA must receive a determination under section 616 of **"Meets Requirements"** from the DE in order to take advantage of this flexibility. Also, IDEA section 613(a)(2)(C)(iii) requires the DE to prohibit an AEA or LEA from reducing its MOE if the DE has taken responsibility for providing a FAPE in the AEA or LEA because the AEA or LEA is unable to establish and maintain programs of FAPE, or the DE has taken action against the AEA or LEA under IDEA section 616. Finally, an AEA or LEA that is required to use 15 percent of its IDEA Part B allocation on CEIS because the DE identified the AEA or LEA as having significant disproportionality under 34 CFR §300.646, will not be able to reduce local MOE under IDEA section 613(a)(2)(C).

7. What are the allowable uses of the "freed up" state and local funds for AEA or LEAs that can reduce their state and local effort?

AEAs or LEAs utilizing the flexibility in IDEA section 613(a)(2)(C) (34 CFR §300.205) must use any funds that otherwise would have been used for special education and related services to support activities that are authorized under the Elementary and Secondary Education Act (ESEA) of 1965. One allowable use of those state and local funds would be to provide coordinated early intervening services to children at risk of school failure without additional support. Also, these freed-up state and local funds can be used for the establishment and development of the Iowa Core Curriculum. Another allowable use for preschool children would be to use those state and local funds to strengthen and expand early childhood education by supporting activities permissible under ESEA Title 1, Part A requirements. Refer to the document, "Uses of Title I, Part A ARRA Funds" for further guidance.

8. If an AEA or LEA opts to utilize the flexibility available under IDEA section 613(a)(2)(C) (34 CFR §300.205) to reduce its MOE in the current fiscal year, what effect would this reduction have on the AEA; or LEA's expected level of MOE in future years?

If an AEA or LEA chooses to utilize the flexibility available under IDEA section 613(a)(2)(C) to reduce the level of local, or state and local, expenditures otherwise required in the current fiscal year, in subsequent fiscal years the AEA or LEA would be required to maintain effort at the reduced level — except to the extent that an AEA or LEA increases the level of expenditures for the education of children with disabilities made by that AEA or LEA above the level of expenditures in school year 2009-2010, using local, or state or local funds. In other words, an AEA or LEA choosing to take advantage of this flexibility may reduce the required MOE level in subsequent years, until that AEA or LEA increases the level of special education expenditures, using state or local funds, on its own.

9. What is an example of how the provision in IDEA section 613(a)(2)(C) (34 CFR §300.205), authorizing AEAs or LEAs to reduce their MOE "up to 50 percent" operates, in light of the IDEA, Part B, ARRA funds?

For example, if the LEA received \$500,000 in school year 2008-2009 and its IDEA, Part B, ARRA Grants to States and regular school year 2009-2010 Grants to States allocation is \$1,200,000, the increase is \$700,000 and the AEA or LEA may reduce its local, or state and local, effort by \$350,000 (50 percent of \$700,000).

The AEA or LEA, however, must spend the full amount by which it reduces local, or state and local, effort for special education and related services under this provision on activities that could be supported with funds under the ESEA — regardless of whether the AEA or LEA is using funds under the ESEA for those activities. This includes any activities allowed under Title I, Impact Aid, and other ESEA programs. An AEA or LEA could use these funds to pay for activities that are currently being funded with other state or local funds or for new activities.

As discussed above, an AEA or LEA choosing to take advantage of this flexibility is only required to maintain expenditures at the reduced MOE level in subsequent years, until that AEA or LEA increases the level of special education expenditures, using state or local funds, on its own.

For example, if the AEA or LEA expended \$2,000,000 of local and state funds on special education and related services in school year 2008-2009 and lowered that amount by \$350,000 (from the example above) in school year 2009-2010, the AEA or LEA must expend at least \$1,650,000 in state and local funds on special education and related services in school year 2010-2011 to meet the MOE requirement in 34 CFR §300.203. In school year 2009-2010, the year the AEA or LEA took the MOE reduction, it also must ensure that \$350,000 is expended on activities allowable under the ESEA. In school year 2010-2011 and subsequent years, the AEA or LEA does not have to continue to separately “track” the \$350,000 expended for ESEA activities.

10. How does taking advantage of the 50 percent MOE reduction under the IDEA, and using a comparable amount of state and local funds for the Elementary and Secondary Education Act (ESEA) activities affect an AEA or LEA’s ESEA MOE level?

Many (but not all) ESEA programs include a MOE requirement, which is described under 34 CFR §299.5. Under this MOE requirement, each AEA or LEA must demonstrate that, during the prior fiscal year, it expended at least 90 percent of the amount expended in the second preceding fiscal year. This MOE amount is calculated based on the AEA or LEA’s expenditures from state and local funds for free public education, including expenditures for administration, instruction, attendance and health services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities. The AEA or LEA may NOT include the following in its calculation: any expenditures for community services, capital outlay, debt service or supplemental expenses made as a result of a Presidentially declared disaster, or any expenditures made from funds provided by the Federal Government.

We would expect that local and state funds used to provide special education and related services would be included in the calculation of state and local funds expended for a free public education. Therefore, shifting local and state funds from special education activities to ESEA activities should have no appreciable effect on the AEA or LEA’s overall expenditures for a free public education under 34 CFR §299.5.

11. Are there other provisions that would allow an AEA or LEA to reduce MOE?

Aside from the 50 percent reduction potentially allowed to AEAs or LEAs under section 613(a)(2)(C) (34 CFR §300.205), AEAs or LEAs may reduce their level of local, or state and local expenditures below amounts expended in the prior year under 34 CFR §300.204 if such a reduction is attributable to any of the following:

- a. The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel;
- b. A decrease in the enrollment of children with disabilities;
- c. The termination of the obligation of the agency, consistent with Part B, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the DE, because the child: (1) has left the jurisdiction of the agency; (2) has reached the age at which the obligation of the agency to provide FAPE to the child has termination; or (3) no longer needs the program of special education;
- d. The termination of costly expenditures for long-term purchases, such as the acquisition of equipment; and/or
- e. The assumption of cost by the high cost fund operated by the DE under 34 CFR §300.704(c).

Waivers

1. What authority does the Secretary of the USDE have to grant waivers of MOE to AEAs or LEAs?

Although the Secretary does not have any additional authority to grant waivers to AEAs or LEAs, AEAs or LEAs may be eligible to reduce the total state and local expenditures otherwise required by the AEA or LEA MOE provisions of IDEA using the flexible authority contained in IDEA, section 613(a)(2)(C).

2. What is the difference between the AEA or LEA supplement not supplant provisions at section 613(a)(2)(A)(ii) (34 CFR §300.202(a)(3)) and the AEA or LEA MOE provisions at section 613(a)(2)(A)(iii) (34 CFR §300.203(a))?

Under IDEA, section 613(a)(2)(A)(iii) (34 CFR §300.203(a) and (b)), an AEA or LEA must not use funds provided under Part B of the IDEA to reduce the level of expenditures for the education of children with disabilities made by the AEA or LEA from local, or state and local, funds below the level of those expenditures for the preceding fiscal year. The standard for determining whether the MOE requirement has been met is that the AEA or LEA actually expends, in total or per capita, an equal or greater amount of local, or state and local, funds in each subsequent year. If an AEA or LEA fails to meet MOE and cannot justify the failure under 34 CFR §§300.204 or 300.205, the DE must pay the Federal Department of Education, from funds for which accountability to the Federal Government is not required, the difference between the amount of local, or state and local, funds the AEA or LEA should have expended and the amount that it did.

Under IDEA, section 613(a)(2)(A)(ii) (34 CFR §300.202(a)(3)) (supplement/not supplant), Part B funds must be used to supplement state, local and other Federal funds (used for providing services to children with disabilities). If the AEA or LEA maintains (or exceeds) its level of local, or state and local, expenditures for special education and related services from year to year, either in total or per capita, then the Part B funds are, in fact, supplementing those local, or state and local, expenditures and the AEA or LEA has met its MOE and supplement/not supplant requirements.¹

Transparency, Accountability, and Reporting

1. Are states required to track IDEA, Part B, ARRA funds separately from IDEA regular funds?

Yes. ARRA requires that recipients of funds made available under that Act separately account for, and report on, how those funds are spent. The U.S. Department of Education has assigned a new Catalog of Federal Domestic Assistance (CFDA) number to the IDEA, Part B, ARRA funds in order to facilitate separate accounting for the funds. Recipients will need to maintain accurate documentation of all ARRA expenditures to ensure that the data reported is accurate, complete, and reliable. The DE will be expected to monitor subgrantees to help ensure data quality and the proper expenditure of ARRA funds. Further information on ARRA reporting instructions will be provided shortly.

2. Are there rules that govern the amount of IDEA, Part B, ARRA funds that the DE, AEA, or LEA may draw down at any one time?

Yes. The DE must have an effective system for managing the flow of funds that ensures that it and AEAs or LEAs are able to draw down funds as needed to pay program costs but that also minimizes the time that elapses between the transfer of the funds and their disbursement by the DE, AEA, or LEA, in accordance with U.S. Department of the Treasury regulations at 31 CFR Part 205. (See 34 CFR §80.21(b).) The DE, AEA, and LEA must promptly, but at least quarterly, remit to U.S. Department of Education interest earned on

¹ Prior to 1992, the Part B regulations also included a “particular cost test” for determining whether supplanting occurred. This requirement meant, for example, that if an LEA spent Part B funds to pay for a teacher’s salary that was previously paid for with state or local funds, a supplanting violation would occur, even though the total amount of state and local funds spent on special education is greater than the amount spent the previous year. At that time, an LEA could maintain effort but still violate the supplement/not supplant provision. The “particular cost test” was removed from the regulations by an amendment published in the Federal Register on August 19, 1992 (37 FR 37652) and that became effective on October 3, 1992. Therefore, no requirement currently exists related to supplanting “particular costs” and if an LEA maintains local, or state and local, effort, it will not violate the supplement/not supplant requirements of the IDEA.

advances. (34 CFR §80.21(i)) The U.S. Department of Education will take appropriate actions against grantees and subgrantees that fail to comply with this requirement.

3. What information is the DE required to include in its quarterly reports under the ARRA?

The DE is required to submit reports containing the information required under section 1512(c) of the ARRA. These reports must be submitted not later than 10 days after the end of each calendar quarter to the U.S. Department of Education. Each AEA and LEA shall provide the DE with information necessary to enable the DE to carry out its reporting duties under IDEA, Part B, ARRA. This information, including such quantitative and qualitative data as the DE may require, shall be submitted in a manner and at a time determined by the DE. Failure to submit timely and accurate information may be considered by the DE in making determinations or in taking any other action to enforce IDEA, Part B, ARRA guidelines.

4. What are our shared responsibilities for ensuring that all funds under the ARRA are used for authorized purposes and instances of fraud, waste, and abuse are prevented?

All ARRA funds must be spent with an unprecedented level of transparency and accountability. Accordingly, DE, AEAs and LEAs must maintain accurate, complete, and reliable documentation of all IDEA, Part B, ARRA expenditures. The ARRA contains very stringent reporting requirements and requires that detailed information on the uses of funds be available publicly.

The DE has important oversight responsibilities and must monitor grant and subgrant activities to ensure compliance with all applicable Federal requirements. If the DE, AEA, or LEA fails to comply with requirements governing the use of IDEA, Part B funds, the U.S. Department of Education may, consistent with applicable administrative procedures, take one or more enforcement actions, including withholding or suspending, in whole or in part, IDEA, Part B funds or recovering misspent funds following an audit.

The ARRA establishes the Recovery Act Accountability and Transparency Board, which is responsible for coordinating and conducting oversight of spending under the ARRA to prevent fraud, waste, and abuse. The USDE's Office of Inspector General (OIG) will conduct comprehensive audits of ARRA implementation activities. In addition, USDE program offices will closely monitor these activities.

Parentally-Placed Private School Students

1. How will the ARRA funds be included in the calculation for proportionate share of IDEA funds for services to parentally-placed private school children?

In calculating the proportionate share required under IDEA section 612(a)(10)(A)(i)(I), an AEA must first aggregate the school year 2009-2010 funds received under the Grants to States regular and ARRA awards and apply the formula outlined in 34 CFR §300.133 to the aggregated amount. Similarly, for children aged 3-5, the proportionate share is based on the total school year 2009-2010 funds received under the Preschool Grants regular and ARRA awards.

2. If an AEA has completed its consultation required under IDEA section 612(a)(10)(A)(iii), will the AEA have to conduct additional consultation because the IDEA ARRA funds will increase the amount available for equitable services to parentally-placed private school children?

Under section 612(a)(10)(A)(iii), timely and meaningful consultation must occur during the design and development of special education and related services. The consultation process must include discussions of "how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process may meaningfully participate in special education and related services." An AEA may be able to use the mechanisms developed for the ongoing consultation process to work with representatives of the private schools located in the area served by the AEA and representatives of parents of parentally-placed private school children with disabilities in determining how the proportionate share of IDEA ARRA funds will be expended. In any case, an AEA must ensure that it has engaged in consultation with the private school representatives and representatives of parents of parentally-placed private school children with disabilities about how the additional funds available for services for parentally-placed private school children with disabilities will be used.

3. May an AEA spend part of the proportionate share of the IDEA, Part B, ARRA funds on children with disabilities parentally-placed in private schools in school year 2009-2010 and part in school year 2010-2011?

Yes, subject to certain conditions. Under 34 CFR §300.133(a), each AEA is required to spend a minimum amount of its subgrants under Part B Grants to States and Preschool Grants programs on children with disabilities parentally-placed in private elementary and secondary schools. The ARRA provides a substantial increase in school year 2009-2010 IDEA, Part B funds. As provided in 34 CFR §300.133(a)(3), if an AEA has not expended all of the proportionate share of its Part B subgrant by the end of the fiscal year for which Congress appropriated the funds, the AEA must obligate the remaining funds for special education and related services to children with disabilities parentally-placed in private schools during a carry-over period of one additional year. An AEA must consult with private school representatives and parents of parentally-placed private school students in designing and developing the special education and related services that the AEA will provide for parentally-placed private school children. (34 CFR §300.134) As part of this consultation, the AEA, private school representatives, and parents of parentally-placed private school students must consider how the proportionate share of IDEA funds (including the regular and ARRA IDEA Part B funds) should be spent. One option for spending those funds would be to spend some in school year 2009-2010 and some in school year 2010-2011.

Allocations: IDEA, Part B Funds

(IDEA, Part B: \$122,095,134; IDEA, Part B Preschool: \$4,141,398)

Please go to www.iowa.gov/educate fiscal year (FY) 2009 and FY 2010 for American Recovery and Reinvestment Act (ARRA) allocations.

1. How and when will Individuals with Disabilities Education Act (IDEA) Part B, ARRA funds be allocated by the Iowa Department of Education (DE) to local and area education agencies (AEAs, LEAs)?

The DE intends to award the IDEA Part B Grants to States and Preschool Grants ARRA funds in five installments beginning May 1, 2009. It is the DE's intent that the remaining four installments be distributed on October 1, 2009; April 1, 2010; October 1, 2010; and April 1, 2011. Each of these installments will be distributed just like the basic Part B allocation by flowing the funds through the AEAs to the LEAs. These awards shall be subject to review and approval by the DE. In addition, these awards will be in addition to the regular school year (2009-2010) Part B awards that will be made about October 1, 2009 (Grants to States and Preschool Grants) and October 1, 2009 (Grants to States only). Together, these grant awards will constitute an LEA's total school year 2009-2010 Part B Grants to States and Preschool Grants allocations.

2. What must an AEA or LEA do to receive IDEA, Part B, ARRA funds?

An AEA or LEA does not need to submit a new application to receive the first installment of the IDEA Part B Grants to States and Preschool Grants ARRA funds because these funds were made available to each AEA or LEA based on the AEA and LEA's eligibility established for school year 2008-2009 Part B funds and its provision of the certification required by section 1607 of the ARRA. The assurances in the AEA and LEA's school year 2008-2009 applications, as well as the requirements of the ARRA, apply to these ARRA funds. In order to receive the remaining funds, each AEA or LEA will need to submit, for review and approval by the DE, additional information that addresses how the AEA or LEA will meet the accountability and reporting requirements in section 1512 of the ARRA. The DE will issue specific guidance for preparing and submitting this recordkeeping and reporting information and other guidance governing ARRA funds in the coming weeks.

3. How are the IDEA, Part B, ARRA funds for the Grants to States and Preschool Grants programs to be allocated to the AEAs and LEAs?

The IDEA, Part B, ARRA funds under section 611 will be allocated 60 percent to the LEAs and 40 percent to the AEAs. The IDEA, Part B, ARRA funds under 619 Preschool Grants will be allocated 100 percent to the AEAs. In addition, both section 611 and 619 ARRA funds will need to be accounted for separately.

Use of Funds: IDEA, Part B, ARRA Funds

Definitions:

Part B Basic Allocation (Part B of IDEA section 611 and 619 Preschool Funding):

Individuals with Disabilities Education Act (IDEA) Part B Basic Allocation Funds must be used only to pay the excess costs of providing special education and related services to children with disabilities, consistent with excess cost requirement. The excess cost requirement prevents a local education agency (LEA) from using funds provided under Part B of the Act to pay for all of the costs directly attributable to the education of a child with a disability. Excess cost means those costs that are in excess of the average annual per-student expenditure in an LEA during the preceding school year for an elementary school or secondary school student. In addition, these funds must be used to supplement state, local, and other Federal funds and not to supplant those funds.

State/Local Funds (State and Local Tax Revenues Established Through the School Funding Formula):

"All revenue raised for support of special education instruction and services is expended for actual delivery of special education instruction or support and related services."

IDEA Recovery Funds (America Recovery and Reimbursement Act):

All IDEA recovery funds must be used consistent with the current IDEA, Part B statutory and regulatory requirements and applicable requirements in the General Education Provisions Act (GEPA) and the Education Department General Administrative Regulations (EDGAR). An area education agency (AEA) or LEA must use IDEA recovery funds only for the excess costs of providing special education and related services to children with disabilities, except where IDEA specifically provides otherwise.

CEIS (Coordinated Early Intervening Services):

Up to 15 percent of Part B funds can be used to address the needs of general education students needing additional academic and/or behavioral supports to succeed in a general education environment. Each AEA or LEA must define these students and record such students who receive the benefit of the funds in Project Easier. In addition, AEAs and LEAs cannot identify all non-special education students in a classroom.

All CEIS funds must be used by an LEA identified as being significantly disproportionate. If significant disproportionality is not an issue in an LEA, the LEA may use up to the maximum amount of 15 percent. Since significant disproportionality is not identified at the AEA level, an AEA can choose to use up to the maximum amount of 15 percent for CEIS. AEAs and LEAs may not use CEIS funds to supplant federal, state or local dollars. They must be used to supplement.

MOE (Maintenance of Effort) Reduction Funds:

An AEA or LEA may use freed-up state and local funds for activities allowable under the ESEA (Elementary and Secondary Education Act), if the AEA or LEA's State Determination is "Meets Requirements."

School-Wide Efforts:

Part B Basic Allocation (Part B of IDEA section 611 and 619 Preschool Funding):

Part B Basic Allocation Funds must be used only to pay the excess costs of providing special education and related services to children with disabilities, consistent with excess cost requirement. The excess cost requirement prevents an LEA from using funds provided under Part B of the Act to pay for all of the costs directly attributable to the education of a child with a disability.

State/Local Funds (State and Local Tax Revenues Established Through the School Funding Formula):

"All revenue raised for support of special education instruction and services is expended for actual delivery of special education instruction or support and related services."

IDEA Recovery Funds (America Recovery and Reimbursement Act):

An AEA or LEA must use IDEA recovery funds only for the excess costs of providing special education and related services to children with disabilities, except where IDEA specifically provides otherwise. An LEA may provide intensive district-wide professional development for special education teachers that focuses on scaling-

up, through replication, proven and innovative evidence-based school-wide strategies in reading, math, writing and science, and positive behavioral supports to improve outcomes for students with disabilities.

CEIS (Coordinated Early Intervening Services):

If funds are used to support school-wide or agency-wide interventions or professional development, the AEA or LEA must be able to provide documentation that CEIS funds were only used to support students who need additional support (AEA or LEA's definition) and that these funds were not used to support the school/agency-wide intervention for special education students and students who do not need additional support

MOE (Maintenance of Effort) Reduction Funds:

An AEA or LEA may use freed-up state and local funds for activities allowable under the ESEA, if the AEA or LEA's State Determination is "Meets Requirements."

Iowa Core Curriculum:

Part B Basic Allocation (Part B of IDEA Section 611 and 619 Preschool Funding):

Part B Basic Allocation Funds may be used to provide access to the Iowa Core Curriculum for children with disabilities, which is addressed in the student's Individualized Education Plan (IEP). These funds may not be used for the establishment and development of the Iowa Core Curriculum.

State/Local Funds (State and Local Tax Revenues Established Through the School Funding Formula):

"All revenue raised for support of special education instruction and services is expended for actual delivery of special education instruction or support and related services."

IDEA Recovery Funds (America Recovery and Reimbursement Act):

IDEA Recovery Funds only may be used to provide access to the Iowa Core Curriculum for children with disabilities, which is addressed in the student's IEP. These funds may not be used for the establishment and development of the Iowa Core Curriculum.

CEIS (Coordinated Early Intervening Services):

These funds are for a defined population in general education and cannot be used for the establishment of the Iowa Core Curriculum .

MOE (Maintenance of Effort) Reduction Funds:

An AEA or LEA may use freed-up state and local funds for activities allowable under the ESEA, if the AEA or LEA's State Determination is "Meets Requirements".

Permissive Use of Funds:

Part B Basic Allocation (Part B of IDEA Section 611 and 619 Preschool Funding):

Part B Basic Allocation Funds may be used for the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to a child with a disability in accordance with the IEP of the child, even if one or more nondisabled children benefit from these services. (Example: classroom paraprofessional)

State/Local Funds (State and Local Tax Revenues Established Through the School Funding Formula):

None.

IDEA Recovery Funds (America Recovery and Reimbursement Act):

IDEA Recovery Funds may be used for the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to a child with a disability in accordance with the IEP of the child, even if one or more nondisabled children benefit from these services. (Example: classroom paraprofessional)

CEIS (Coordinated Early Intervening Services):

These funds are for a defined population in general education.

MOE Reduction Funds (Maintenance of Effort):

An AEA or LEA may use freed-up state and local funds for activities allowable under the ESEA, if the AEA or LEA's State Determination is "Meets Requirements".

Professional Development:**Part B Basic Allocation (Part B of IDEA section 611 and 619 Preschool Funding):**

Part B Basic Allocation Funds must be used only to pay the excess costs of providing special education and related services to children with disabilities, consistent with excess cost requirement. The excess cost requirement prevents an LEA from using funds provided under Part B of the Act to pay for all of the costs directly attributable to the education of a child with a disability.

State/Local Funds (State and Local Tax Revenues Established Through the School Funding Formula):

"All revenue raised for support of special education instruction and services is expended for actual delivery of special education instruction or support and related services."

The test is "actual delivery." If the staff member's entire time is involved in "actual delivery" of special education instruction or support and related services, the staff member's position may be supported by state and local special education funds. To the extent that a staff member's position is divided between "actual delivery of special education instruction or support and related services" and other tasks, only the time spent providing "actual delivery" of special education instruction or support and related services may be supported by state and local special education funds. The rest of the staff member's time must be supported with other revenue sources, and subject to the restrictions imposed by those other revenue sources. If an AEA or LEA divides a staff member's compensation between state and local special education funds and another revenue source or sources, they must have suitable documentation that the staff member was involved in the "actual delivery" of special education instruction or support and related services for the portion of that staff member's time that is charged to state and local special education funds.

IDEA Recovery Funds (America Recovery and Reimbursement Act):

IDEA Recovery Funds must be used only to pay the excess costs of providing special education and related services to children with disabilities, consistent with excess cost requirement. The excess cost requirement prevents an LEA from using funds provided under Part B of the Act to pay for all of the costs directly attributable to the education of a child with a disability.

CEIS (Coordinated Early Intervening Services):

CEIS can only be used for professional development for personnel who are responsible for students who the AEA or LEA has defined as needing additional academic and/or behavioral support to be successful in the general education environment. Under very limited circumstances, special education staff and others not responsible for the identified class of students can participate, if the cost of the professional development does not increase, the quality of professional development does not decrease, and including these staff members would not exclude other personnel who are responsible for students who need additional support.

MOE (Maintenance of Effort) Reduction Funds:

An AEA or LEA may use freed-up state and local funds for activities allowable under the ESEA, if the AEA or LEA's State Determination is "Meets Requirements".

Potential Uses of the IDEA, Part B, ARRA Funds

Below are examples of potential uses of IDEA, Part B ARRA funds, which should not be construed to expand allowable special education expenses for state/local purposes. These uses are focused on the core reform goals for which states must provide assurances under State Fiscal Stabilization Fund (SFSF).

1. Employing displaced special education staff in new and innovative ways and creating additional job opportunities for others in special education, which focus on increasing student achievement.
2. Establishing or expanding fiscally sustainable additional-learning opportunities for special education students in research-based and targeted assistance programs that are tightly matched to an individual child's academic and or social/emotional needs. These may include activities provided before school,

after school, or over the summer. This is to be in addition to any Extended School Year services deemed necessary for a special education student (not an allowable special education expense for state/local funds).

3. Participating in a statewide, AEA-based, or district-level system of research-based year-long intensive professional learning for special education personnel such as teachers and para-educators. The focus should be on developing a deep 'Foundational' knowledge base focused on instruction in the areas of literacy, mathematics, and science for students that need specially designed instruction in order to raise the bar and close the achievement gap.
4. Participating in a statewide, AEA-based, or district-level system of research-based year-long intensive professional learning for special education personnel such as teachers and para-educators. The focus should be on developing a deep 'Foundational' knowledge base focused on instruction in the areas of social, emotional, and behavioral needs of students. Part of the focus would be on supporting students and families with challenging behavior concerns and also the work being addressed through Positive Behavioral Interventions and Supports (PBIS).
5. Participating in intensive professional learning that requires the application of the training in 'Foundational' instruction around literacy, mathematics, and science. Special educators should be trained in research – based instructional programs, strategies, and practices that have shown to improve results for students with IEPs, and then be provided the support while implementing these practices.
6. Establishing and participating in intensive year-long professional learning that focuses on developing the expert skills of special educators so that they know how to assess individual special education students diagnostically. This training needs to include how to gather formative assessments in the areas of literacy and mathematics. The focus should include interpretation of the data and then the ability to match an instructional program, strategy, or practice to the specific needs of the student in order to improve outcomes and close the gap.
7. Establishing and participating in intensive year-long professional learning that focuses on developing the progress monitoring and instructional decision-making skills of special educators. This year-long learning needs to address the needs of the continuum of special needs students and their teachers. For example, professional learning for teachers that work with students with significant disabilities, autism, and those that have mild learning needs. This assessment and decision-making training needs to address areas such as: progress monitoring tools and strategies, graphing, instructional changes and phase lines, and the writing of standard-based goals that will align with the Iowa Core Curriculum.
8. Establishing a system for identifying and training highly effective special educators to serve as Instructional Leaders in their buildings and districts. These special educators would have training in addition to the instructional methods and pedagogy provided to all special educators. This additional training would focus on the role of an embedded instructional coach or professional developer for special education teachers in order to achieve sustained implementation and improved outcomes for special education students (not an allowable special education expense for state/local funds).
9. Employing displaced special education staff in unique and innovative ways to increase special education students' instructional time, collaboration between the general and special education teachers, and the ability of the special educators to participate in professional development without limiting student instruction.
10. Employing displaced special education staff to focus on special education students' transition goals by working directly with the students and teachers on improving outcomes as they move from middle school to high school to help address the dropout rate at 9th grade. They could also work directly on improving outcomes as students with disabilities transition from high school to post high school in the areas of living, learning, and working.
11. Employing work experience coordinators (instructors) to assist students with disabilities. This will assist with improved outcomes for special education students as they transition to post high school life and the work world.

12. Paying for costs associated with collecting One Year Follow-Up Data within the Iowa Department of Education's I-STAR web tool. Examples of costs include wages, long distance phone charges, and participant incentives (not an allowable special education expense for state/local funds).
13. Participating in intensive professional learning around the use of equipment, technology, assistive technology, and technology related materials that will aid in accessibility to the Iowa Core Curriculum, inclusion, and on closing the achievement gap for special education students by special education teachers. This learning may require assistance with implementation. Identifying a special educator that receives additional training in supporting others with implementation of technology would be beneficial.
14. Purchasing of equipment, technology (both hardware and software), and the technology related tools and licenses that have been shown to be effective and necessary for improving the outcomes for students with special needs. A simple example is the purchase and training in instructional use of Classroom Amplification systems, interactive white-boards, and individual student gel/white boards.
15. Providing intensive professional learning opportunities to special education paraeducators and to the special education teachers with whom they work. There is a significant need for additional intensive professional learning so students with these needs have improved outcomes and greater independence.
16. Engaging in recruitment and retention activities that will address areas of shortage such as the following: speech-language pathology (SLPs), occupational therapy, physical therapy, and hearing interpreters.
17. Providing the training, equipment, and tools for SLPs to use telepractice as a service delivery model for students with disabilities.
18. Providing professional learning opportunities for hearing Interpreters that will assist them in preparing for and completing their Educational Interpreter Performance Assessment (EIPA).
19. Providing for the use and implementation of tele-interpreter services/supports for students with hearing impairments.
20. Establishing intensive research-based professional learning opportunities for special educators of LEAs and AEAs focused on parent/family/and community relationships and involvement for students with disabilities. This training would focus on practices that have direct impact on special education student improvement in the areas of academics and social/emotional skills.
21. Providing special education personnel with professional development needed to effectively engage in Dispute Resolution processes.

Potential Uses of State/Local Funds Freed-Up by the MOE Reduction

The AEA or LEA must spend the full amount by which it reduces state and local effort on activities that could be supported with funds under the ESEA - regardless of whether the AEA or LEA is using funds under the ESEA for those activities. This includes any activities allowed under any Title Program (Title I-IX) under the Elementary and Secondary Education Act (ESEA). In addition, an AEA or LEA could use these funds to pay for activities that are currently being funded with other state or local funds or for new activities. Appropriate uses for the freed-up state and local funds can be found by going to the following website

<http://www.ed.gov/policy/elsec/leg/esea02/index.html>.

The DE expects the freed-up state and local funds to be focused in the following areas:

1. Improving teacher effectiveness and the equitable distribution of highly qualified teachers by:
 - a. Establishing fair and reliable evaluation systems that provide feedback and helping educators improve. It is anticipated that a district may have to report information on the use and outcomes of the teacher evaluation system established under the Teacher Quality legislation in 2001 under this assurance;
 - b. Establishing a system for identifying and training highly effective teachers to serve as instructional leaders or coaches and modifying the school schedule to allow for collaboration among the instructional staff. Provision of district supports and professional development activities tied to research-based strategies and district student achievement goals; and
 - c. Implementing innovative strategies for identification of, advancement of, and compensation for highly effective teachers and leaders.

- d. Using a School Administrator Manager (SAM) in a Title I school-wide building. SAM is a process to focus principal time on instructional leadership, teaching practice, student learning, and school improvement.
- 2. Establishing data systems and using data for improvement, including:
 - a. Strengthening the use of longitudinal data systems to drive effective decision-making and continuous improvement efforts; and
 - b. Developing and providing intensive professional development on use of data to improve instruction.
- 3. Turning around the lowest-performing schools by:
 - a. Attracting committed educators who are compensated for taking on new assignments and roles in a school identified as a school in need of assistance;
 - b. Extending time for learning, including activities provided before school, after school, during the summer, or over an extended school year;
 - c. Providing intensive, year-long teacher training in reading that aggressively works on improving students' oral language skills and vocabulary or, in some other way, builds teachers' capacity to address academic achievement problems;
 - d. Strengthening and expanding early childhood education;
 - e. Providing intensive training to all teachers in new curriculum and the use of assessment data to improve instruction; and
 - f. Using high-quality learning activities to help secondary students meet core content requirements.
- 4. Making progress towards rigorous standards by:
 - a. Allocating time for alignment of district's written curriculum to the Iowa Core Curriculum;
 - b. Establishing equivalent assessment to determine proficiency for post-secondary courses;
 - c. Provide professional developments in research-based instructional materials;
 - d. Review district assessments to determine alignment to the Iowa Core Curriculum; and
 - e. Analyze teacher's content and skill knowledge to implement the Iowa Core Curriculum.

Reporting: ARRA Reporting Requirements

The Individuals with Disabilities Education Act (IDEA) Part B American Recovery and Reinvestment Act (ARRA) funds will be reported on a web-based system. The first report for the Iowa Department of Education (DE) on the use of IDEA, Part B, ARRA funds is due on July 15, 2009. Local and area education agencies (LEAs, AEAs) will be required to file their reports previous to the July 15 deadline on a date specified by the DE. All LEA-level activities will be reported onto this reporting program. More information will be provided regarding reporting requirements.

1. Are states required to track IDEA, Part B, ARRA funds separately from IDEA regular funds?

Yes. ARRA requires that recipients of funds made available under that Act separately account for, and report on, how those funds are spent. The U.S. Department of Education has assigned a new Catalog of Federal Domestic Assistance (CFDA) number to the IDEA, Part B, ARRA funds in order to facilitate separate accounting for the funds. Recipients will need to maintain accurate documentation of all ARRA expenditures to ensure that the data reported is accurate, complete, and reliable. The DE will be expected to monitor sub-grantees to help ensure data quality and the proper expenditure of ARRA funds. Further information on ARRA reporting instructions will be provided shortly.

2. What information is the DE required to include in its quarterly reports under the ARRA?

The DE is required to submit reports containing the information required under section 1512(c) of the ARRA. These reports must be submitted not later than 10 days after the end of each calendar quarter to the U.S. Department of Education. Each AEA and LEA shall provide the DE with information necessary to enable the DE to carry out its reporting duties under IDEA, Part B, ARRA. This information, including such quantitative and qualitative data as the DE may require, shall be submitted in a manner and at a time determined by the DE. Failure to submit timely and accurate information may be considered by the DE in making determinations or in taking any other action to enforce IDEA, Part B, ARRA guidelines.

3. What are our shared responsibilities for ensuring that all funds under the ARRA are used for authorized purposes and instances of fraud, waste, and abuse are prevented?

All ARRA funds must be spent with an unprecedented level of transparency and accountability. Accordingly, DE, AEAs, and LEAs must maintain accurate, complete, and reliable documentation of all IDEA, Part B, ARRA expenditures. The ARRA contains very stringent reporting requirements and requires that detailed information on the uses of funds be available publicly.

The DE has important oversight responsibilities and must monitor grant and subgrant activities to ensure compliance with all applicable Federal requirements. If the DE, AEA, or LEA fails to comply with requirements governing the use of IDEA, Part B funds, the U.S. Department of Education may, consistent with applicable administrative procedures, take one or more enforcement actions, including withholding or suspending, in whole or in part, IDEA, Part B funds or recovering misspent funds following an audit.

The ARRA establishes the Recovery Act Accountability and Transparency Board, which is responsible for coordinating and conducting oversight of spending under the ARRA to prevent fraud, waste, and abuse. The USDE's Office of Inspector General (OIG) will conduct comprehensive audits of ARRA implementation activities. In addition, Department program offices will closely monitor these activities.

Resources:

American Recovery and Reinvestment Act (ARRA) Iowa Department of Education
www.iowa.gov/educate/

American Recovery and Reinvestment Act of 2009 U.S. Education Department
www.ed.gov/policy/gen/leg/recovery/index.html

Iowa's Economic Recovery
recovery.iowa.gov/

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